

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

PATRICIA BERG,

Plaintiff,

v.

INVACARE CORP.,

Defendant.

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Case No. 17-12362

SENIOR U.S. DISTRICT JUDGE  
ARTHUR J. TARNOV

U.S. MAGISTRATE JUDGE  
DAVID R. GRAND

**ORDER ADOPTING REPORT AND RECOMMENDATION [43]; DENYING  
DEFENDANT’S MOTION TO DISMISS [32]; AND AMENDING SCHEDULING ORDER**

On December 27, 2018, Defendant Invacare Corp. filed a Motion to Dismiss for Plaintiff’s Failure to Appear at Deposition as well as Produce Husband for Deposition [32] pursuant to Fed. R. Civ. P. 37(d) and 37(b)(1). Plaintiff Patricia Berg, through counsel, filed a Response [34] on January 10, 2019. Defendant filed a Reply [36] on January 17, 2019.

On March 12, 2019, this Court referred the Motion to Dismiss [32] to the Magistrate Judge for report and recommendation.

On April 25, 2019, following a hearing on the Motion [32], the Magistrate Judge issued a Report & Recommendation [43] (“R&R”) recommending that the

Court deny Defendant's Motion to Dismiss [32] and amend the scheduling order.

Neither party has filed any objection to the R&R.

The Court having reviewed the record, the R&R [43] is hereby **ADOPTED** and entered as the findings and conclusions of the Court.

**IT IS ORDERED** that Defendant's Motion to Dismiss [32] is **DENIED**.

**IT IS FURTHER ORDERED** that the scheduling order is **HEREBY AMENDED** to reflect the dates set forth in the R&R.

**SO ORDERED.**

Dated: May 22, 2019

s/Arthur J. Tarnow  
Arthur J. Tarnow  
Senior United States District Judge